

**VII – 7.24 POLICY ON CALL-UP TO ACTIVE MILITARY DUTY DURING  
A NATIONAL OR INTERNATIONAL CRISIS OR CONFLICT FOR  
NONEXEMPT AND EXEMPT STAFF EMPLOYEES**

(Approved by the Board of Regents, October 5, 2001; Amended December 6, 2002; Amended October 17, 2003; Amended September 10, 2004; Amended June 18, 2010; Amended October 9, 2015)

**I. PURPOSE AND APPLICABILITY**

The purpose of this policy is to provide procedures consistent with the health and retirement benefits programs administered by the State of Maryland; the USM policy on return to work; and the USM policies on tuition remission, upon call-up to active military duty during a national or international crisis or conflict by order of the President of the United States. The policy is not intended to take precedence over Article 65, Section 42, of the Annotated Code of Maryland and Federal law for orders to active military duty made by the Governor of the State of Maryland. Commencing July 1, 2003, to the extent that there is any inconsistency between Section II of Policy VII-7.24 and Section II.C. of Policy VII-7.23, Policy VII-7.23 shall take precedence.

The policy applies to full-time and part-time USM Exempt and Nonexempt Staff employees on Regular Status.

**II. CONTINUATION OF HEALTH BENEFITS**

**A. Military Reserves – Paid Leave**

1. Upon call-up to active military duty during a national or international crisis or conflict, an employee shall submit a copy of the military orders to his immediate supervisor and may elect to use accrued leave to remain on the payroll. In the absence of such an election, or upon the exhaustion of accrued leave, the employee shall be placed on Leave Without Pay Status.
2. While on the active payroll, a reservist shall have the same benefit deductions, unless the reservist files an Active Employee Enrollment Form to cancel any or all benefits within 60 days of entry into Active Duty. A copy of the military orders must be submitted with the Active Employee Enrollment Form. If the Active Employee Enrollment Form is not completed to cancel any or all deductions, the same deductions shall continue as long as the employee remains on active payroll.
3. Personal Accidental Death and Dismemberment (PA&D) plan shall not provide benefits to anyone injured in military service. Benefits shall be provided, as appropriate, to a spouse or child if the employee has family coverage. A military reservist with PA&D "individual" coverage should cancel deductions

while on paid leave status, as PA&D plan shall not honor any claims for the employee while on military duty. The employee can elect to continue PA&D "Family" coverage.

4. While on active military service, any medical care provided to the employee is through the military. All of the State medical plans have blanket exclusions for medical care rendered while a person is on active duty while serving in the military; this is a standard exclusion clause.
5. Dependents of military personnel on active duty are automatically covered by TRICARE, a federal military health program. An employee called to active duty may elect to discontinue state health benefits coverage for his or her dependents, relying upon TRICARE for dependent health care coverage. In the alternative, the employee may elect to continue state health benefits coverage for his or her dependents. As the dependents are not on active military duty, the state health benefits coverage shall be the primary coverage for these dependents.

B. Military Reserves - Leave without Pay

1. If the military reservist goes on a Leave Without Pay status, the employee may elect to continue benefits as a "Military LAW" employee. The employee should complete Form 46 Qualified Leave of Absence Request or Notification of Military Service Entry. If the employee wishes to continue benefit coverage, a Direct Pay Enrollment Form must also be completed. The Institution Benefits Coordinator and Fiscal Officer should complete the agency verification portion of the form.
2. Subsidization for Health, Prescription and Dental Plans: While on active military duty, the employee contribution and State contribution for health benefits shall continue if the reservist elects to continue health, prescription and dental plans. Accordingly, the employee shall not be billed for these three types of benefits plans, if they choose to continue them while on Military LAW. Therefore, it is critical that the Fiscal Officer completes the fiscal designation portion of the form, as the USM shall be charged for the full amount of the premiums (employee plus State portions) for the health, prescription and dental plans.
3. Employee-Pay-All Plans (State Life Insurance, Flexible Spending Accounts, PA&D, State Long Term Care, USM Life Insurance, USM Long Term Disability, etc.). These types of benefits plans are "Employee-Pay-All" and are not subsidized. An employee who elects to continue these benefits shall be billed by the State and coupons shall be provided for payment to the State. State Long-Term Care, USM Life Insurance and USM Long Term Disability continuation payments shall be paid directly to the vendor. The premium

payments while on the Military LAW will be post-tax and will not affect the employee's W-2 status.

4. When active duty is completed and the employee returns to USM employment, the employee must file an Active Employee Enrollment Form (with the discharge papers attached to the form) within 60 days of the discharge date to start benefit deductions from his/her University paycheck.

### III. STATE RETIREMENT AND PENSION SYSTEMS

- A. All employees called up for military service should complete MD Retirement Agency Form 46, "Qualified Leave of Absence Request or Notification of Military Service Entry." If a member has already been called up and cannot complete the form, the USM institution can submit it on behalf of the called-up employee.
- B. If an employee returns to work within one year of release from active duty and did not accept other permanent employment, the employee will be reinstated in the pension/retirement system and will receive service credit for the term of the military service. The employee does not need ten years of creditable service to claim service for military action that interrupts membership. The employee shall submit Form 43, "Claim of Retirement Credit for Active Duty Military Service" with the proper military documentation when the employee returns to work.
- C. Service credit will be given for up to five years of military service that interrupts membership. This is in addition to the five years for military credit for service prior to membership.
- D. An employee is not required to make up missed contributions. The member's missed contributions and employer's contribution costs are included in the annual valuation done by the actuary to determine the cost to employers.
- E. Filing Date for Form 46 "Qualified Leave of Absence Request or Notification of Military Service Entry":
  1. Military Leave Without Pay - the filing date on Form 46 shall be the date that the employee begins active duty.
  2. Military Leave With Pay - the filing date on Form 46 shall be the date that the employee has exhausted all accrued leave and begins Leave Without Pay.
- F. Military Reserves –Killed in the Line of Duty or Disability while on Leave With Pay

An employee who is killed in the line of duty or who sustains serious injuries, making it impossible for the member to return to work, and such death or injury occurs while on Leave With Pay Status, is entitled to the same death and disability

benefits as an active employee. Surviving beneficiaries shall receive a lump sum payment of the annual salary plus contributions or, if the spouse law comes into effect a monthly check for life. If disabled during active duty military service, an employee still on Leave With Pay Status, may file for an ordinary disability benefit but not an accidental disability benefit.

G. Military Reserves – Disability or Killed in the Line of Duty while on Leave Without Pay

An employee killed in the line of duty, or who sustains serious injuries making it impossible to return to work, and such death or injury occurs while on Leave Without Pay Status, will not receive a death benefit or have the right to file for a disability benefit from the State Retirement Agency. If the employee should die, only the employee's contributions with interest will be paid to the beneficiary.

**IV. OPTIONAL RETIREMENT PROGRAM – LEAVE WITH AND WITHOUT PAY**

- A. The activation date of approved military leave should be the date that the employee is activated.
- B. As a condition of membership in the Optional Retirement Program, no death benefit or right to file for a disability benefit from the State Retirement Agency is available.
- C. While still on the payroll, employer contributions to the employee's ORP and State service credit shall continue.
- D. No State service credit shall accrue, nor shall employer contributions be made, while the employee is on Leave Without Pay. Upon return to work, USM employer contributions shall resume.

**V. USM TUITION REMISSION BENEFIT**

- A. An employee who is currently in a degree-seeking program and using tuition remission may continue to use tuition remission if called to active duty and stationed locally.
- B. An eligible spouse/dependent currently in a degree-seeking program and using tuition remission may continue to use tuition remission.
- C. If an employee is killed in the line of duty, spouse/dependent tuition remission benefits shall be provided in accordance with the USM Policy on Tuition Remission for Spouse and Dependents.
- D. If an employee does not return to USM service, tuition remission for the employee, spouse and dependents shall terminate.

**VI. REPORTING BACK TO WORK**

The period an individual has to report back to work after military service is based on USERRA/US Department of Labor regulations.

**IMPLEMENTATION PROCEDURES**

Each President shall identify his/her designee(s) as appropriate for this policy, develop procedures as necessary to implement this policy, communicate this policy and applicable procedures to his/her institutional community, and post it on its institutional website.

**REFERENCE:**

Annotated Code of Maryland, State Personnel and Pension Article, Section 9-1107; last sentence in Section I., previous language subject to abrogation on June 30, 2005 followed MD Code language was made permanent by the General Assembly in their 2005 session.